JD(ATL)–10–03
Jackson, KY

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
ATLANTA BRANCH OFFICE

JACKSON HOSPITAL CORPORATION D/B/A KENTUCKY RIVER MEDICAL CENTER

and **CASES 9–CA–39402–1**
9–CA–39402–2
9–CA–39402–3

UNITED STEELWORKERS OF AMERICA, AFL–CIO–CLC

Donald A. Becher, Esq.
for General Counsel.
Don T. Carmody, Esq.
for Respondent.
Randy Pitcock
for Charging Party.

Decision

A complaint and notice of hearing issued on August 23, 2002. Respondent filed an answer dated September 4, 2002. Respondent, Charging Party and General Counsel submitted a stipulation and motion to administrative law judge dated October 30, November 4 and November 4, 2002. The associate chief judge issued an Order Accepting Stipulated Record; Waiver of Hearing; Assignment of Judge and Establishing Briefing Date on November 14 2002. I have considered the full record in reaching this decision, including briefs filed by Counsel for General Counsel and Respondent.

Jurisdiction:[1]

At all material times Jackson Hospital Corporation d/b/a Kentucky River Medical Center has been a corporation engaged in the operation of an acute care hospital in Jackson, Kentucky. During the 12 months before issuance of the complaint Respondent, in conducting its operations received gross revenues in excess of $250,000 and during that same 12 months it purchased and received at its Jackson facility goods valued in excess of $50,000 directly from points outside Kentucky; and it

[1] All the conclusionary statements found under the heading "Jurisdiction" are supported by Respondents' Answer or by the parties' stipulation of facts.

has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.[2]

Labor Organizations:

At all material times the Charging Party, United Steelworkers of America, AFL–CIO–CLC, has been a labor organization within the meaning of Section 2(5) of the Act.[3]

Representation:

Following a June 8, 1998 election the Charging Party was certified as collective bargaining agent of employees in the below described appropriate collective bargaining unit:[4]

> *All full–time and regular part–time registered nurses, the team leader, and the continuing education coordinator; nonprofessional employees, including the medical records employees, admission employees and purchasing employees; and technical employees, including certified respiratory therapy technicians, x–ray technicians, licensed practical nurses, the DRG coordinator, medical lab technicians, and the physical therapy assistant employed by Respondent at its 540 Jetts Drive, Jackson, Kentucky facility, but excluding the registered respiratory therapists, medical technologists, utilization review nurses, business office clerical employees, confidential employees, and all other professional employees, guards and supervisors as defined in the Act.*

A decertification petition was filed on June 8 and an election was held on December 10, 1999. A majority of the unit employees voted to continue to be represented by the Union. Respondent filed timely objections on April 6 and the Region 9 Regional Director issued a May 26, 2000 report recommending that Respondent's objections be overruled. The Board adopted the Regional Director's recommendations and certified the Union as bargaining representative on August 2, 2000.

Respondent refused the Union's subsequent request to bargain. A charge was filed and a complaint issued on November 16 alleging that Respondent refused the Union's request to bargain in violation of Section 8(a)(1) and (5). The Board granted a motion for summary judgment on January 31, 2001.[5] The Sixth Circuit Court of Appeals upheld the Board on March 21, 2002.[6]

Respondent argued in ***Jackson Hospital Corporation d/b/a Kentucky River Medical Center*****,** Case 9–CA–37734, et al; JD–24–02, currently pending before the NLRB on exceptions to the administrative law judge decision, that it was not obligated to recognize the Union while it was testing the Union's status following the December 10,

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2 These facts are admitted in Respondent's answer and included in the all–party stipulation.

3 These facts are admitted in Respondent's answer and included in the all–party stipulation.

4 These facts are included in the all–party stipulation.

5 ***Jackson Hospital Corporation d/b/a Kentucky River Medical Center***, 333 NLRB No. 29 (2002).

6 ***NLRB v. Kentucky River Medical Center***, Case No. 01–1406 (6th Cir. 2002).

1999 election in Case 9–RD–1904 until the Circuit Court issued its enforcement order on March 21, 2002.

The alleged unfair labor practices:

About January 1, 2002 Respondent:[7]

(1) Changed the insurance benefits of unit employees including an increase in deductibles and co–pays in the employees health insurance plan, a change in the carrier for short term disability, heart/stroke and cancer insurance, and the discontinuance of the predecessor insurance carrier's short term disability, heart/stroke and cancer insurance; and

(2) Introduced a "GEM Program" which enabled those unit employees employed in the nursing department to earn extra income up to $4,000 a year for performing such services as presenting in–services, reviewing policies, cross training, teaching, etc.

About March 2002 Respondent:[8]

Discontinued a program whereby those unit employees employed in the nursing department earned $25 gift certificates of an unlimited number for voluntarily working extra shifts.

The above changes in January and March 2002 related to wages, hours and other terms and conditions of employment of bargaining unit employees and are mandatory subjects for the purpose of collective bargaining. Respondent made those changes without prior notice to the Union and without affording the Union an opportunity to bargain with respect to the changes or the effects of those changes.[9]

Positions of the Parties:

General Counsel argued that Respondent has an obligation to bargain while testing certification, citing the decision of Administrative Law Judge David Evans.[10] There Judge Evans cited ***Dow Chemical Co. v. NLRB***, 660 F.2d 637, 654 (5th Cir. 1981) as holding "an employer is considered to act 'at its peril' if it makes any unilateral changes in terms and conditions of employment following a union election victory."

Respondent argued, (1) that it was not required to negotiate with the Union while testing certification; (2) that General Counsel failed to prove that Respondent actually made changes in its existing policies;[11] and (3) that I lack authority to issue a decision

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7 These facts are included in the all–party stipulation.

8 These facts are included in the all–party stipulation.

9 These facts are included in the all–party stipulation.

10 JD–24–02.

11 Respondent argued that its policies in effect at the time of the Board's August 2000 certification constitute a *de facto* collective bargaining agreement and General Counsel failed to allege or establish that its purported unilateral actions were not permitted by, and consistent with, that *de facto* agreement.

inasmuch as JD–24–02 is currently pending before the Board on exception.[12]

Conclusions:

Credibility:

There are no material credibility conflicts in view of the parties' stipulation of facts.

Findings:

Inasmuch as the first point in Respondent's argument is similar to the issue presented by General Counsel's argument I shall reserve that factor and consider Respondent's points (2) and (3).

As to (2), the underlying unfair labor practice charges[13] all allege that Respondent refused to bargain with the Union as unit employees' collective bargaining representative and that Respondent made unilateral changes. The charge in case 9–CA–39402–1 included allegations that Respondent refused to bargain and that Respondent made unilateral changes "in employee insurance without bargaining." The charge in case 9–CA–39402–2 included an allegation that Respondent failed and refused to bargain by implementing a "Gem Program." The charge in case 9–CA–39402–3 included an allegation that Respondent refused to bargain by "discontinuing $25 gift certificates for nursing employees who work shifts of overtime."

The Complaint alleged in paragraph 8 that Respondent made changes in insurance benefits and introduced a GEM program about January 1, 2002 and that Respondent discontinued giving bonus to unit employees that voluntarily worked extra shifts about March 2002; that those changes related to wages, hours and other terms and conditions of employment of unit employees; and that Respondent made those changes without notice to the Union and without giving the Union an opportunity to bargain with respect to the changes or effects of those changes. At paragraph 9 the Complaint alleged that those actions alleged in paragraph 8 constitute unfair labor practices.

In their stipulation, paragraph 8, the parties agreed that Respondent made changes in insurance benefits and introduced a GEM program about January 1, 2002 and that Respondent discontinued giving bonus to unit employees that voluntarily worked extra shifts about March 2002; and that those changes related to wages, hours and other terms and conditions of employment of unit employees. In paragraph 9 of their stipulation the parties agreed that those changes were made without prior notice to the Union and without affording the Union an opportunity to bargain with respect to the conduct or effects of those changes.

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[12] Respondent argued that the issue of whether it was required to negotiate with the Union while it was testing certification is before the Board and in the event the Board disposes of the exceptions in a manner that is favorable to Respondent, the instant Complaint will be dismissed.

[13] Cases numbers 9–CA–39402–1, 9–CA–39402–1 and 9–CA–39402–3.

From reading the above documents it is clear that the Union and General Counsel alleged that Respondent made unilateral changes in unit employees' working conditions. From the stipulation it is clear that all parties including Respondent agreed that Respondent did make the alleged changes in working conditions of unit employees without affording the Union notice or an opportunity to bargain. It is disingenuous for Respondent to now argue that General Counsel failed to prove that Respondent actually made changes to existing policies. That argument is in direct conflict with the stipulated facts and Respondent was party to that stipulation.

Moreover, it is disingenuous for Respondent to contend that General Counsel failed to prove its current policies did not permit the alleged unlawful changes. As shown above, all parties including Respondent, stipulated, among other things, that Respondent made the alleged changes and that those changes constitute unit employees' wages, hours or other terms and conditions of employment. The broad terms used in the stipulation show that all parties intended to agree that Respondent made changes in working conditions which were within the scope of required bargaining issues absent Respondent's test of certification.

Therefore, I find Respondent's second point lacks merit.

As to the (3) point raised by Respondent, it may be true that a Board decision regarding JD–24–02, may render this matter moot or may result in the Board ordering this matter dismissed. However, Respondent cited no authority for me to withhold action and I am unaware of any such authority.

Therefore, I find Respondent's second point lacks merit.

As to the matter raised by Respondent under item (1), which was also referred to in General Counsel's brief, I have fully considered authority cited by the parties.

Respondent cited ***Peabody Coal Company***, 725 F.2d 357 (6th Cir. 1984) for the proposition that an employer may refuse to bargain while it is testing certification. *Peabody Coal* refused to extend increased wages and benefits to employees included in a unit involved in its test of certification. The 6th Circuit Court of Appeals held, among other things, that the exclusion of unit employees from those increases did not constitute a violation of Section 8(a)(5) even though it may have constituted a violation of Section 8(a)(3). The Court held there was no evidence that the changes constituted a change in working conditions for unit employees in view of the administrative law judge finding there was no established practice of granting increases in wages and benefits to unit employees.

General Counsel cited the decision of the administrative law judge in JD–24–02.[14] The administrative law judge in that decision cited ***Dow Chemical Co. v. NLRB***,

[14] There the administrative law judge cited ***Dow Chemical Co. v. NLRB***, 660 F.2d 637 (5th Cir. 1961).

660 F.2d 637, 654 (5th Cir. 1954), to support his finding that an employer acts at its peril when it makes unilateral changes without bargaining, during its test of certification.

However, General Counsel's quote from the administrative law judge failed to show that the Court in ***Dow Chemical Co. v. NLRB*** denied enforcement of the Board decisions. In fact the quotation that an employer acts "at its peril" does not represent a full appreciation of the opinion in ***Dow Chemical Co. v. NLRB***. Instead, the Dow Court held that an employer might make unilateral changes while testing certification but those changes may constitute unfair labor practices if the ultimate ruling on the election goes against the employer. In other words an employer acts at its peril because the representation decision may go against the employer.

However, the *Dow* Court also held that those unilateral changes would not constitute unfair labor practices if the ultimate ruling on the election favored the employer.

Nevertheless, I shall also examine Board law on the issue at hand. The Board considered the issue in ***W.A. Krueger Co***., 299 NLRB 914 (1990). The Board stated, among other things:

> *For the reasons stated below, we decline to extend the Mike O'Connor "at risk" rule to decertification situations. Accordingly, we adhere to Presbyterian Hospital and find that in the decertification context the change in the basic relationship between the parties and in the parties' obligations to bargain should not be effective until the date the certification issues. This view is consistent with the status quo approach of Mike O'Connor. Thus, any unilateral changes made before the issuance of the certification of results violate Section 8(a)(5) and (1) of the Act. In refusing to enforce Dow Chemical, the Fifth Circuit stated, inter alia, that it saw no basis in law or justice for distinguishing between initial representation and decertification elections. We respectfully disagree and find a substantial basis on which to draw a distinction between the rules applied to initial representation elections and those applied to decertification elections. The basis of that difference in the relationship among the employer, the employees, and the union at the time of the two types of petitions are filed. (299 NLRB No. 141, slip opin. p. 3; footnotes omitted).*[15]

The Board held:

> *By making unilateral changes in the employees' terms and conditions of employment on March 9, 1983, while the parties' contract was in effect, and on May 18 and 31, 1983, before the certification of results in Case 26–RD–590 was issued, without prior notice to or negotiations with the Union, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act. (299 NLRB No. 141, slip opin. p. 6; footnotes omitted).*

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[15] Cf. ***Wayne County Neighborhood Legal Services, Inc.***, 333 NLRB No. 15 (2001), where the Board distinguished W.A. Krueger, and found an employer violated Section 8(a)(1) and (2) by continuing to recognize and incumbent union after an election in which that Union was eliminated and a rerun election ordered to determine whether unit employees wanted to be represented by a different union.

Subsequently, in ***Southwick Group***, 306 NLRB No 182 (1992), the Board explained the in *W.A. Krueger* ruling:

> ***W.A. Krueger*** *involved a decertification petition. That is, the union was the incumbent representative at the time of the election, and was ultimately deemed to be the loser of the election. The Board held that unilateral changes made between the election and the certification of results were unlawful. In essence, under Kruger an employer cannot ignore the incumbent union, by making unilateral changes, until after the union is declared the loser in the election. (306 NLRB 893, 894 (1992), footnote omitted).*

Of course, here, as in ***W.A. Krueger***, the alleged unfair labor practices occurred between the election in a decertification effort and the final decision regarding certification of the election results.

The Board decision in ***W.A. Krueger*** may be contrary to the opinions of the 5th and 6th Circuit Courts in *Peabody Coal* and *Dow Chemical*. Nevertheless,

> *It has been the Board's consistent policy for itself to determine whether to acquiesce in the contrary views of a circuit court of appeals or whether, with due deference to the court's opinion, to adhere to its previous holding until the Supreme Court of the United States has ruled otherwise. But it is not for a Trial Examiner to speculate as to what course the Board should follow where a circuit court has expressed disagreement with its views. On the contrary, it remains the Trial Examiner's duty to apply established Board precedent, which the Board or the Supreme Court has not reversed. Only by such recognition of the legal authority of Board precedent, will a uniform and orderly administration of a national act, such as the National Labor Relations Act, be achieved. (**Iowa Beef Packers, Inc.**, 144 NLRB 615, 616 (1963).*[16]

I find that Respondent engaged in unfair labor practices by unilaterally changing bargaining unit employees' terms and conditions of employment on January 1 and in March 2002.

Conclusions of Law

1. By refusing to bargain in good faith with United Steelworkers of America, AFL–CIO–CLC, as exclusive collective bargaining agent for employees in the below described appropriate bargaining unit by unilaterally changing insurance benefits to bargaining unit employees including an increase in deductibles and co–pays in the employees' health insurance plan, a change in the carrier for short term disability, heart/stroke and cancer insurance and the discontinuance of the predecessor insurance carrier's short term disability, heart/stroke and cancer insurance, and unilaterally introducing a "GEM Program" which enabled those unit employees employed in the nursing department to earn extra income up to $4,000 a year for performing such services as presenting in–services, reviewing policies, cross training, teaching, etc., about January 1, 2002; and by unilaterally discontinuing a program whereby those unit employees employed in the nursing department earned $25 gift certificates of an

[16] See ***Ford Motor Co. v. NLRB***, 571 F.2d 993, 996 (7th Cir. 1978).

unlimited number for voluntarily working extra shifts, about March 2002, Respondent, ***Jackson Hospital Corporation d/b/a Kentucky River Medical Center*** has engaged in unfair labor practices affecting commerce within the meaning of Section8(a)(1) and (5) and Section 2(6) and (7) of the Act:

> *All full–time and regular part–time registered nurses, the team leader, and the continuing education coordinator; nonprofessional employees, including the medical records employees, admission employees and purchasing employees; and technical employees, including certified respiratory therapy technicians, x–ray technicians, licensed practical nurses, the DRG coordinator, medical lab technicians, and the physical therapy assistant employed by Respondent at its 540 Jetts Drive, Jackson, Kentucky facility, but excluding the registered respiratory therapists, medical technologists, utilization review nurses, business office clerical employees, confidential employees, and all other professional employees, guards and supervisors as defined in the Act.*

Remedy

Having found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

The Respondent having unlawfully refused to bargain by unilaterally changing wages and benefits for bargaining unit employees, it must make bargaining unit employees whole for all losses of earnings and other benefits, computed on a quarterly basis from date of those unilateral changes until those changes were rescinded or until the Union fails to request rescission of the unlawful changes in accord with this decision, less any net interim earnings, as prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), plus interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[17]

ORDER

The Respondent, *Jackson Hospital Corporation d/b/a Kentucky River Medical Center*, its officers, agents, and representatives, shall

1. Cease and desist from:

(a) Refusing to bargain in good faith with United Steelworkers of America, AFL–CIO–CLC, as exclusive collective bargaining agent for employees in the bargaining unit by unilaterally changing insurance benefits to bargaining unit employees including an increase in deductibles and co–pays in the employees' health insurance

[17] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

plan, a change in the carrier for short term disability, heart/stroke and cancer insurance and the discontinuance of the predecessor insurance carrier's short term disability, heart/stroke and cancer insurance; or by unilaterally introducing a "GEM Program" which enabled those unit employees employed in the nursing department to earn extra income up to $4,000 a year for performing such services as presenting in–services, reviewing policies, cross training, teaching, etc.; or by unilaterally discontinuing a program whereby those unit employees employed in the nursing department earned $25 gift certificates of an unlimited number for voluntarily working extra shifts.

(b) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit concerning the unilateral changes found unlawful herein:

> *All full–time and regular part–time registered nurses, the team leader, and the continuing education coordinator; nonprofessional employees, including the medical records employees, admission employees and purchasing employees; and technical employees, including certified respiratory therapy technicians, x–ray technicians, licensed practical nurses, the DRG coordinator, medical lab technicians, and the physical therapy assistant employed by Respondent at its 540 Jetts Drive, Jackson, Kentucky facility, but excluding the registered respiratory therapists, medical technologists, utilization review nurses, business office clerical employees, confidential employees, and all other professional employees, guards and supervisors as defined in the Act.*

(b) On request by the Union rescind its unilateral changes including its January 1, 2002 changes in insurance benefits to bargaining unit employees including an increase in deductibles and co–pays in the employees' health insurance plan, a change in the carrier for short term disability, heart/stroke and cancer insurance and the discontinuance of the predecessor insurance carrier's short term disability, heart/stroke and cancer insurance, and its unilaterally implemented "GEM Program" which enabled those unit employees employed in the nursing department to earn extra income up to $4,000 a year for performing such services as presenting in–services, reviewing policies, cross training, teaching, etc.; and its March 2002 unilateral discontinuance of a program whereby those unit employees employed in the nursing department earned $25 gift certificates of an unlimited number for voluntarily working extra shifts.

(c) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(d) Within 14 days after service by the Region, post at its facility in Jackson, Kentucky copies of the attached notice marked "Appendix."[18] Copies of the notice, on forms provided by the Regional Director for Region 9, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since January 1, 2002.

(e) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated at Washington, D.C.

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Pargen Robertson
Administrative Law Judge

18 If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading **"POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD"** shall read **"POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."**

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board had found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL NOT refuse to bargain in good faith with United Steelworkers of America, AFL–CIO–CLC, as exclusive collective bargaining agent for employees in the below described appropriate bargaining unit by unilaterally changing insurance benefits to bargaining unit employees including an increase in deductibles and co–pays in the employees' health insurance plan, a change in the carrier for short term disability, heart/stroke and cancer insurance and the discontinuance of the predecessor insurance carrier's short term disability, heart/stroke and cancer insurance; or by unilaterally introducing a "GEM Program" which enabled those unit employees employed in the nursing department to earn extra income up to $4,000 a year for performing such services as presenting in–services, reviewing policies, cross training, teaching, etc.; or by unilaterally discontinuing a program whereby those unit employees employed in the nursing department earned $25 gift certificates of an unlimited number for voluntarily working extra shifts:

> *All full–time and regular part–time registered nurses, the team leader, and the continuing education coordinator; nonprofessional employees, including he medical records employees, admission employees and purchasing employees; and technical employees, including certified respiratory therapy technicians, x–ray technicians, licensed practical nurses, the DRG coordinator, medical lab technicians, and the physical therapy assistant employed by Respondent at its 540 Jetts Drive, Jackson, Kentucky facility, but excluding the registered respiratory therapists, medical technologists, utilization review nurses, business office clerical employees, confidential employees, and all other professional employees, guards and supervisors as defined in the Act.*

WE WILL, on request by the Union, rescind our above–mentioned unilateral changes as those changes apply to bargaining unit employees.

WE WILL, on request, bargain with the Union as exclusive collective bargaining representative of bargaining unit employees regarding our unilateral changes including our unilaterally changing insurance benefits to bargaining unit employees including an

increase in deductibles and co–pays in the employees' health insurance plan, a change in the carrier for short term disability, heart/stroke and cancer insurance and the discontinuance of the predecessor insurance carrier's short term disability, heart/stroke and cancer insurance; our unilaterally introducing a "GEM Program" which enabled those unit employees employed in the nursing department to earn extra income up to $4,000 a year for performing such services as presenting in–services, reviewing policies, cross training, teaching, etc.; and our unilaterally discontinuing a program whereby those unit employees employed in the nursing department earned $25 gift certificates of an unlimited number for voluntarily working extra shifts.

WE WILL make bargaining unit employees whole for all losses of earnings and other benefits suffered because of our unfair labor practices, computed on a quarterly basis from the respective dates of our unilateral changes, less any net interim earnings, as prescribed in ***F. W. Woolworth Co.***, 90 NLRB 289 (1950), plus interest as computed in ***New Horizons for the Retarded***, 283 NLRB 1173 (1987).

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of their rights guaranteed them by Section 7 of the Act.

JACKSON HOSPITAL CORPORATION d/b/a
KENTUCKY RIVER MEDICAL CENTER
(Respondent)

Dated: _____ **By: _____**
(Representative) **(Title)**

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret–ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

550 Main Street, Federal Office Building, Room 3003, Cincinnati, OH 45202–3271

(513) 684–3686, Hours: 8:30 a.m. to 5 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (513) 684-3663.

The National Labor Relations Board had found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL NOT refuse to bargain in good faith with United Steelworkers of America, AFL–CIO–CLC, as exclusive collective bargaining agent for employees in the below described appropriate bargaining unit by unilaterally changing insurance benefits to bargaining unit employees including an increase in deductibles and co–pays in the employees' health insurance plan, a change in the carrier for short term disability, heart/stroke and cancer insurance and the discontinuance of the predecessor insurance carrier's short term disability, heart/stroke and cancer insurance; or by unilaterally introducing a "GEM Program" which enabled those unit employees employed in the nursing department to earn extra income up to $4,000 a year for performing such services as presenting in–services, reviewing policies, cross training, teaching, etc.; or by unilaterally discontinuing a program whereby those unit employees employed in the nursing department earned $25 gift certificates of an unlimited number for voluntarily working extra shifts:

All full–time and regular part–time registered nurses, the team leader, and the continuing education coordinator; nonprofessional employees, including he medical records employees, admission employees and purchasing employees; and technical employees, including certified respiratory therapy technicians, x–ray technicians, licensed practical nurses, the DRG coordinator, medical lab technicians, and the physical therapy assistant employed by Respondent at its 540 Jetts Drive, Jackson, Kentucky facility, but excluding the registered respiratory therapists, medical technologists, utilization review nurses, business office clerical employees, confidential employees, and all other professional employees, guards and supervisors as defined in the Act.

WE WILL, on request by the Union, rescind our above–mentioned unilateral changes as those changes apply to bargaining unit employees.

WE WILL, on request, bargain with the Union as exclusive collective bargaining representative of bargaining unit employees regarding our unilateral changes including our unilaterally changing insurance benefits to bargaining unit employees including an increase in deductibles and co–pays in the employees' health insurance plan, a change in the carrier for short term disability, heart/stroke and cancer insurance and the discontinuance of the predecessor insurance carrier's short term disability, heart/stroke and cancer insurance; our unilaterally introducing a "GEM Program" which enabled those unit employees employed in the nursing department to earn extra income up to $4,000 a year for performing such services as presenting in–services, reviewing policies, cross training, teaching, etc.; and our unilaterally discontinuing a program

whereby those unit employees employed in the nursing department earned $25 gift certificates of an unlimited number for voluntarily working extra shifts.

WE WILL make bargaining unit employees whole for all loss of earnings and other benefits suffered because of our unfair labor practices, computed on a quarterly basis from date of discharge to date of proper offer of reinstatement, less any net interim earnings, as prescribed in ***F. W. Woolworth Co.***, 90 NLRB 289 (1950), plus interest as computed in ***New Horizons for the Retarded***, 283 NLRB 1173 (1987).

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of their rights guaranteed them by Section 7 of the Act.

JACKSON HOSPITAL CORPORATION d/b/a
KENTUCKY RIVER MEDICAL CENTER
(Respondent)

Dated: _____ **By: _____**
(Representative) **(Title)**